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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
East River Electric Power Cooperative, Inc.	)	File No.: EB-FIELDWR-13-00010398
Owner of Antenna Structure No. 1041658	)	
	)	
Willow Lake, SD	)	NOV No.: V201332800063

**NOTICE OF VIOLATION**

**Released:** September 12, 2013

By the District Director, Denver District Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to East River Electric Power Cooperative, Inc. (EREPCI), registrant of Antenna Structure # 1041658 by Willow Lake, SD. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.<sup>2</sup>

2. On July 31, 2013, an agent of the Enforcement Bureau's Denver District Office inspected Antenna Structure # 1041658, located approximately 3.5 miles southwest of Willow Lake, SD, and observed the following violations:

- a. 47 C.F.R. § 17.23: "Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the FAA's painting and lighting recommendations set forth on the structure's FAA determination of "no hazard,"..." The FAA recommended that the tower be painted and lit in accordance with FAA Circular 70/7460-1G, Chapters 3, 4, 5, and 9. Chapter 3 requires that the tower be painted and Chapter 5 requires that the tower have four levels of red lights. At the time of the inspection, the agent observed that the tower had only two levels of lights installed and these were flashing white.
- b. 47 C.F.R. § 17.50: "Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility." As mentioned above, the FAA recommended that the tower be

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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          painted. At the time of the inspection, the agent observed that the tower was not painted.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, EREPCI must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct EREPCI to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of EREPCI with personal knowledge of the representations provided in EREPCI's response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Denver District Office  
215 S. Wadsworth Blvd., Suite 303  
Lakewood, CO 80226

6. This Notice shall be sent to East River Electric Power Cooperative, Inc. at its address of record.

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<sup>3</sup> 47 U.S.C. § 403.

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears  
District Director  
Denver District Office  
Western Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).